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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,696	09/20/2006	Mitsunori Taniguchi	043890-0942	2844

53080 7590 10/28/2008
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

EXAMINER

LEO, LEONARD R

ART UNIT	PAPER NUMBER
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3744

MAIL DATE	DELIVERY MODE
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10/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/593,696	Applicant(s) TANIGUCHI ET AL.	
	Examiner Leonard R. Leo	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 2,4,5,7 and 9-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,6 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicants' election of the species of Figure 7 in the reply filed on August 7, 2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). The election of species requirement did not list Figure 7 as a species. However, applicants elected species II and listed claims 1-3 and 6-8 readable thereon. Therefore, the elected species is believed to be Figure 10.

Claims 2, 4-5, 7 and 9-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Regarding claim 2, Figure 10 does not disclose "alternately stacked" "substrates" and "other substrates." Regarding claim 7, the claim depends on withdrawn claim 4.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Takashi (JP 3055130). Takashi discloses a plurality of substrates 1 having a plurality of long plates with concave recesses , and slits 4. Regarding claim 8, the claim reciting "welding" is considered to be a method limitation in an apparatus claim, which bears no patentable weight in this instance. See MPEP 2113.

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Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Karmazin. Karmazin discloses a plurality of substrates 10 having a plurality of long plates with recesses 12, and slits 31. Regarding claim 8, the claim reciting “welding” is considered to be a method limitation in an apparatus claim, which bears no patentable weight in this instance. See MPEP 2113. Arguendo, Karmazin (page 1, column 2, lines 19-22) discloses the substrates 12 are welded together.

Claims 1, 3, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Hagemeister. Hagemeister discloses a plurality of substrates 1a, 1b having a plurality of long plates 5 with semi-elliptical recesses, and slits 4.

Regarding claim 3, Hagemeister discloses holding plates 30, 31 (Figure 2) at both ends of the long plates (i.e. upper and lower U-shaped long plates are defined in the substrate 1 of Figure 1) and long holes 2a, 2b.

Regarding claim 6, inherently, lids are placed over the long holes 2a, 2b to provide an inlet and outlet to the device of Hagemeister.

Regarding claim 8, the claim reciting “welding” is considered to be a method limitation in an apparatus claim, which bears no patentable weight in this instance. See MPEP 2113. Arguendo, Hagemeister (column 6, lines 59-61) discloses the substrates 1a, 1b are welded together.

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Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Dewar. Dewar discloses a plurality of substrates 11 having a plurality of long plates with recesses 20, and slits 15.

Regarding claim 3, Hagemeister discloses holding plates 30, 31 (Figure 2) at both ends of the long plates (i.e. upper and lower U-shaped long plates are defined in the substrate 1 of Figure 1) and long holes 2a, 2b.

Regarding claim 6, inherently, lids are placed over the long holes 2a, 2b to provide an inlet and outlet to the device of Hagemeister.

Regarding claim 8, the claim reciting “welding” is considered to be a method limitation in an apparatus claim, which bears no patentable weight in this instance. See MPEP 2113.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonard R. Leo whose telephone number is (571) 272-4916. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/ LEONARD R. LEO /
PRIMARY EXAMINER
ART UNIT 3744

October 30, 2008